GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Chi. B. Pranayi, being Minor, on behalf of her father Sri B. Sankar Naik, Occ: Student, Chittoor District, against the proceedings No. D.Dis.C3/10206/2006, dated 12.07.2010 of the District Collector, Chittoor, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 15 Dated: 08-02-2019
Read the following:

1. Proceedings of the District Collector, Chittoor, No.D.Dis.C3/10206/2006, dt.12.07.2010.
2. Appeal Petition filed by Chi. B. Pranayi, Minor, on behalf of her father Sri B. Sankar Naik, Giddangi Street, Tirupati, Chittoor District before the Govt. dt.13.8.2010.
3. Govt. Memo No. 6130/CV.2/2010, dated: 25.8.2010.
4. From the District Collector, Chittoor, Lr.No. Roc.C3/2881/2012, dated 18.05.2012.
5. Govt. Memo No. 6130/CV.2/2010, dated 22.10.2018.
6. Vakalath filed by Sri B.H.Ravi, Advocate, before the appellate authority on 03.11.2018.
7. Written Arguments filed by the appellant, through his Counsel before the Appellate Authority on 03.11.2018.

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ORDER:

In the reference 1st read above, the District Collector, Chittoor has issued orders cancelling ST-Sugali caste certificate obtained from the then Mandal Revenue Officer, Tirupati in the year 2004 & 2009 by Chi. B.Pranayi, D/o B. Sankar Naik.

2. In the reference 2nd read above, Chi. B. Pranayi, being Minor, on behalf of her father Sri B. Sankar Naik, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Chittoor. After examining the said Appeal Petition, Government have admitted the Appeal Petition and stay rejected by the Government and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed Chi. B.Pranayi, D/o B. Sankar Naik.

4. The said Appeal Petition has been posted for hearing on 03.11.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5thread above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 6th read above, Sri B.H.Ravi, Advocate have filed vakalath on behalf of the appellant and in the reference 7th read above, the appellant has submitted written arguments in-support of his ST-Sugali community claim through his Counsel, before the Government/ Appellate Authority on 03.11.2018 and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chittoor, dated 12.07.2010, the Appellate Authority is observed that :

I. The appellant in her grounds has stated that her father viz., Sri B. Sankar Naik belongs to ST-Sugali community of Kotakonda Eguva Thanda, Thambalapalli Mandal, Chittoor District has married one Smt. C.Bhanu Kiranmayee who belongs to 'Besta' (BC) community on 29.06.1997 at Kotakonda Thanda, which is a native place of Sri B.Sankar Naik and marriage was performed as per customs and ceremonies as prevalent in the 'Sugali' community in the midst of community elders, people and relatives of both sides and the appellant is the off spring of the said wedlock and that the above couple were also provided with Inter Caste Marriage and were sanctioned

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with an incentive of Rs.10, 000/-. Further she has stated that her father i.e., B.Sankar Naik and Grandfather i.e., B.Narasimhulu Naik and Grandmother Smt B.Tulasamma W/o B.Narasimhulu Naik filed their respective Affidavits by explaining all the facts and circumstances more particularly describing following of customs and traditions and their acceptance to the marriage etc., crystal clears the factual aspects involved in the lies. In that process Smt.Bhanu Kiranmayee was elected as watershed chairman in Kota Konda Revenue Village and also chosen the 1st leader of "Haritha Laxmi Trift Group", (SHG) of concerned village, due to wedlock only they blessed with two daughters and their naming ceremonies etc and other customs strictly followed as per the Sugali's customs and traditions only.

II. Further he has also stated that the appellant being brought up by the father and also by her grandparents and being exposed to the sufferings and all disadvantages of the Tribal community and they were shifted to Tirupati, where the maternal grandparents of the appellant residing as children education purpose. Finally, she has stated that the above facts were neither examined nor verified by the lower authority and passed the orders against the facts and law and also violation of principles of Natural Justice.

III. The District Level Scrutiny Committee has observed that appellant Chi.B.Pranayi is the daughter of B.Sankar Nair (Sugali) and Smt.Bhanu Kiranmayi (Bestha-BC). But no proof was produced that, the father of the appellant Chi.Pranayi is residing along with her and her mother at Tirupati. The core issue is the caste to which the applicant belongs but not the marriage of her parents and procedure & the tradition under which the marriage was celebrated. The marriage and marriage photos are not disputed by the people of both communities as well as this authority. No evidence is produced that, the mother of the appellant is residing with her father and her selections watershed chairman and thrift group leader. The main ingredient for deciding the caste of an off spring of the inter-caste couples are the circumstances, locality, customs, traditions and caste of the parent under whom he/she brought up as pr the guidelines issued from time to time by the concerned department, but not the customs and traditions and the acceptances to the inter-caste marriage of the grandparents of the appellant. But the appellant has not produced any relevant documents in support of her ST-Sugali community claim. Based on the findings of the DLSC, the District Collector has cancelled the appellant's ST-Sugali caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority has observed that during the course of arguments, the advocate of appellant submitted arguments have stated that the father, grandfather and grandmother are all of them belongs to ST Sugali community as such she is also same community and further stated that her parents' marriage was performed in accordance with the customs and traditions of sugali's and both initially resided in Thanda and their marriage was accepted by the tribal society. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that admittedly the father of the appellant belongs to ST Sugali community and the marriage of him with non-tribe accepted by the tribal community. It is observed that lower authority cancelled the caste certificate of the appellant under impression that the appellant living with her mother parents. That as seen from the record that the tribal society accepted the marriage of the parents of appellant as such it can be presumed that the children of them are also accepted by the tribal society and further the present appellant representing by her father who is ST and having cordial relationship with appellant and lower authority failed to consider the same.

VI. Further, it is observed that in Circular Memo. No. 10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions general instructions for claiming Community Certificates are as follows:

General Instructions :- (Applicable in all cases)
Where a person claims to belong to Scheduled Caste or Scheduled Tribe by birth it should be verified:-

i. that the person and the parents actually belong to the community claimed;

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ii. that this community is included in the Constitution (Scheduled Castes and Scheduled Tribes) Order, 1950 as amended in 1976, which specified the Scheduled Castes or Scheduled Tribes in relation to the State of Andhra Pradesh;

iii. that the person belongs to the State of Andhra Pradesh and the area within the State in respect of which the community has been Scheduled;

V. Status of the Off-spring of a couple where one of the spouses is a member of Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Schedule Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father, in the large majority of cases, having regard to the concept of domicile explained in para IV above. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs. The same principal will also apply to the case of an off-spring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe. However, each case has to be examined in the light of the attendant facts and circumstances. As per the said instructions stated supra, in the instant case, the appellant's father belongs to ST-Sugali community and he brought up her children in the fold of ST-Sugali community. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Chi. B.Pranayi, D/o B. Sankar Naik, by upholding her Scheduled Tribe (Sugali) community claim and ST-Sugali caste certificate issued by the then Mandal Revenue Officer, Tirupati and the Proceedings of the District Collector, Chittoor issued in the reference 1st read above are set- aside.

7. The District Collector, Chittoor is directed to take necessary consequential action in the matter.

8. The records (containing No.D.Dis.C3/10206/2006, dated 12.07.2010, pages : 1-377 CF) received from the District Collector, Chittoor i through the reference 4th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R. P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Chittoor.
(with original records) (BY RPAD)

Chi. B. Pranayi, Minor,
Rep. by her father B. Sankar Naik,
C/o D.No.3-4-87, Giddangi Street,
Tirupathi, Chittoor District.

Sri B.H.Ravi, Advocate,
19, V.L.R. Complex,
Kachiguda, Hyderabad-27.
Copy to :
The Director, TCR& TI, AP, Amaravati.
The PS to M(TWE&PH).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER